

3. (Twice Amended) The apparatus according to claim 1 or 2, wherein said  $\beta$  angle ( $\alpha$ ) corresponds to the angle of enclosure which is enclosed by said receiving surface (3a) of the stand up bag (3) with the opposite side surface of the stand up bag (3).

### REMARKS

Claims 1-4 were pending in the application. By the present amendment, claims 1-4 remain pending. The applicants respectfully traverse the claim rejections based on the following grounds.

Claims 1-4 have been rejected under 35 U.S.C. 102(b) as anticipated by Geyssel, U.S. Patent No. 4,584,046 (Geyssel). Independent claim 1, as amended, recites that the stand up bags lie with one lateral side on the conveyor surface. The transfer means is recited as being arranged above the conveyor to attach drinking straws to a side surface of each bag that is opposite to the side surface on which the bag lies on the conveyor surface. As is clear from the applicants' specification and drawing figures, the bottom of the bag surface is not resting on the conveyor surface.

In contrast, Geyssel discloses only that the stand up bags rest on their bottom surfaces and that the drinking straws are applied to one of the side surfaces. Both of the side surfaces in Geyssel extend upward from the conveyor surface. Neither of the bag lateral sides rests on the conveyor surface.

In rejecting claims 1-4, the official action references Figure 9 of Geyssel. Figure 9 discloses a drinking straw attachment device that has transfer means arranged by forming an "acute" angle with the conveying surface. The article which is adapted to receive the drinking straw in figure 9, however, is clearly resting with its bottom surface on the conveyor surface as the straw is applied. Each of the opposite lateral side surfaces is oriented extending essentially vertically, though at a slight "acute" angle (not quite perpendicular to the conveyor surface).

The arrangement shown in Figure 9 of the Geyssel reference is art over which the subject matter recited in claims 1-4 is a substantial improvement. Further evidence of this fact is found in the applicants' own publication, European Patent Document No. EP 909710. A copy of this publication was forwarded to the Office a Supplemental Information Disclosure Statement submitted on May 2, 2001. EP 909710 likewise discloses attaching

drinking straws to bags which stand in an upright position with their bottom surfaces on the conveyor surfaces and opposite lateral side surfaces extending generally vertically.

The Geyssel reference fails to disclose all of the limitations of independent claim 1 and the corresponding dependent claims 2-4. Geyssel, therefore, fails to anticipate or render obvious the claimed subject matter. Claims 1-4 are believed to be in condition for allowance and, therefore, the rejection under §102 should be withdrawn.

### CONCLUSION

Claims 1-4 are in condition for allowance in view of the foregoing amendments and remarks. Reconsideration and allowance of these claims is hereby respectfully solicited.

The examiner is invited to contact the undersigned at the telephone number listed below in order to discuss any remaining issues or matters of form that will move this case toward allowance. This response is timely submitted within three months of the mailing date of the official action and, therefore, no fee is due at this time.

Respectfully submitted,

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VERSION SHOWING CHANGES MADE

In the Claims

1. (Twice Amended) In an apparatus for applying a drinking straw to a receiving surface of a stand up bag which can be supplied on a conveying surface to a transfer means for drinking straws, the improvement comprising that the stand up bag lies with a side surface that is generally opposite said receiving surface (3a) resting on the conveyor surface and that said transfer means (5) is arranged such that the drinking straw (2) while being handed over encloses an acute angle ( $\alpha$ ) with the conveying surface (4a).

3. (Twice Amended) The apparatus according to claim 1 or 2, wherein [the stand up bag (3) lies on the conveying surface (4a) with an outer surface opposite to said receiving surface (3a) and] said angle ( $\alpha$ ) corresponds to the angle of enclosure which is enclosed by said receiving surface (3a) of the stand up bag (3) with the opposite [outer] side surface of the stand up bag (3).

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